

31. *(Amended)*: A computer-based method, as defined in claim 28, wherein the step of receiving a command comprises receiving a command to cancel a specified bid on the option to purchase a particular attendance right.

32. *(Amended)*: A computer-based method, as defined in claim 1, [wherein receiving comprises] further comprising the step of receiving a command to place and maintain a bid, higher than the current highest bid, but subject to a limit, on the option to purchase a particular attendance right.

REMARKS

Claims 1-38 were pending. Claims 9-10 and 29-32 were amended. Accordingly, claims 1-38 are pending and at issue.

1. Objections to the Specification

The Examiner observed that the application did not include an Abstract. Accordingly, an appropriate Abstract has been drafted and is submitted herewith. The Abstract quotes language from page 8, line 15 to page 8, line 22 of the as-filed specification and, as such, no new matter has been added.

The Examiner objected to the specification because of an informality on page 5. Accordingly, the term “of” has been corrected to read –or--.

2. Claim Objections

The Examiner objected to claims 9-12 and 29-32 because the phrase “storing includes further including” set forth in claim 9 is grammatically incorrect. Appropriate corrections have been made to claim 9. Also, the Examiner observed that line 2 of claims 29-32 include the term “receiving” which lacks antecedent basis, and that “receiving” should read “receiving a command”. Appropriate corrections have been made to claims 29-32.

3. Claim Rejections – 35 USC 112

The Examiner rejected claim 10 under 35 USC 112 as being indefinite for lack of antecedent basis. More specifically, the term “the particular event” lacks antecedent basis. This phrase has been amended to read “a particular event”. Claim 10 now meets all applicable requirements of 35 USC 112.

4. Claim Rejections – 35 USC 102 and 35 USC 103

The Examiner rejected claims 1-4, 8, 9, 23, 28, 29, 33, and 37-38 under 35 USC 102(b) as being anticipated by the Walker patent. The Examiner rejected claims 5, 10-13, 17, 20, 22, and 24 under 35 USC 103 as being obvious in view of Walker. The Examiner rejected claims 6, 7, 18, 19, 21, 26, 27, 30-32, and 34-36 under 35 USC 103 as being obvious in view of the combination of Walker and Wagner. Finally, the Examiner rejected claims 14-16 under 35 USC 103(a) as being obvious in view of the combination of Walker and DeLorme.

The foregoing rejections are all based upon the Walker patent, either alone or taken in combination with other patents. However, even if all of the cited reference are combined, the claimed invention is not obvious in view of the resultant combination, owing to substantial differences between the claimed invention and what is described in the Walker patent.

Moreover, the claimed invention is not anticipated by the Walker reference. Before considering the Walker reference in greater detail, however, it would first be useful to discuss various novel aspects of applicant’s claimed invention.

As described in the Objects and Summary section of the present application, the invention pertains specifically to the creation, issuance, valuation/pricing, trading and exercise of options for attendance rights (tickets) to events. These events take place in an elimination format, narrowing of the field of participants. The participation of certain contestants in such event(s) is uncertain at the time of issue of such attendance rights (tickets).

The following example will illustrate a practical application of the present invention. Consider the case of the U.S. Open tennis tournament. At the beginning of the tournament, a draw is developed by the organizers that specifies a set of matches between the various contestants, and the format in which the field of contestants or draw will narrow in each subsequent round of play. Play culminates in a final match which will determine the winner of the tournament. At the start of the tournament, the only known matches are in the first round. For all subsequent matches/rounds of play (second round through to the final), the contestants are unknown and will be determined by the outcomes of the previous round matches. However, tickets are sold to all of these subsequent rounds of play/matches without the buyer knowing who he/she will be able to watch when they use their attendance rights to watch the matches.

The claimed invention allows for the creation of Options that allow fans to specify (up front) what contestants they would like to watch. The invention also allows fans to specify particular rounds of play and purchase options on the attendance rights for such matches. These options vest if the specified contestants qualify for the selected round of play. In the case of such a vesting, the option holder will then have the guaranteed allocation of the requisite attendance right (ticket) for which they will pay face value to the organizers. While the term option has been used throughout applicant's disclosure, it is really a contingent ticket or attendance right where the buyer of this right can specify one or both contestants that they would like to watch. If the foregoing condition is met, the organizers will guarantee to sell them the associated attendance right/ticket.

Applicants' invention applies to all elimination format events where there is some uncertainty regarding the participants and there is a qualification step on the part of the contestants required to become a participant in the event or contest. These would therefore apply

to events like the NCAA College Basketball Tournament, NBA/NHL/NFL/Major League Baseball Playoffs, All tournaments like the US Open, Golf tournaments that have match play or on or more cuts (where some contestants are eliminated), Olympic events, World Cup Soccer, etc.

An illustrative process performed pursuant to applicants' claimed invention is as follows:

1. For each tournament/sport season, the various possible permutations and combinations are identified. Based on the seats/tickets available, the various options are created within the scope of the invention. For example, in the U.S. Open Tennis tournament, options are offered for matches featuring Pete Sampras as one of the contestants for all rounds from the Second Round through the Final. Similarly, options are created for all the contestants.
2. Target customers are offered these options for purchase. The mechanics of this offer and the requisite customer interactions are described in the application.
3. As matches are complete and the field of contestants narrows with the completion of each round of play, certain options will vest and certain others will expire. These vesting and expiration events will be determined within the scope of the invention. Customers holding vested options will then be sold tickets to the particular underlying matches/events. This process will progress throughout the duration of the tournament/contest.
4. As long as options have neither vested nor expired, customers will be allowed an opportunity to trade these options among themselves in various mechanisms described in the application.

5. The foregoing steps will be accomplished electronically within the system so that there is no need for options to be issued in paper or other medium. The trading marketplace is managed by the invention without the need for a physical marketplace.

The fundamental distinction between the claimed invention and the cited prior art (Walker, Official Athletic site of the University of Maryland, etc.) is the contingent nature of the options disclosed in the present application wherein their vesting is determined by the chosen team/contestant/participant underlying this option. The team/contestant/participant must qualify *Cl. 10* for the chosen match/contest/event.

Walker et al. (5,797,127) describe an option on an airline ticket that serves the simple and narrow function of protecting the potential traveler from increases in the fare and from the cost of cancellation if his travel plans change. The purpose of Walker's option is not to protect the traveler in the event that the flight is cancelled or never takes off. Accordingly, Walker has no vesting mechanism as set forth in the applicant's currently pending claims, and serves an entirely different purpose. In fact, the Walker approach can be simply viewed as a financial option that has been in existence for a number of years in financial markets, where the price of a ticket is used instead of the price of a financial asset (stock, bond, exchange rate, etc.). The buyer/holder of the option can profit by predicting the directional change in the price of the underlying asset (be it an airline ticket, a stock, or even the cost of a loaf of bread).

*option
to buy
the ticket
at a
certain
price*

Walker envisions that his options would be sold by airlines who completely control the price of the underlying tickets and, hence, have the ability to control both sides of the value equation for the options and thereby limiting its applicability. Walker is the equivalent of betting with someone that you could guess the number he chooses when he's allowed to make that

choice after you have made your selection. Hence, any prior art techniques that Walker discloses regarding “pricing” of options is impractical and not applicable to the current invention.

The foregoing distinctions are present, for example, in applicant’s claim 9, which specifies that the stored “information” related to vesting of the option is not limited to the person’s name who is buying the option, but includes the underlying contestants chosen, the event/match/round of play for which they have to qualify, information like location of the game (for example, home/away, etc.), location and type of seating/ticket, and if the option has been traded the owner at the time of vesting. Walker does not contemplate these aforementioned factors as his type of “options” do not require this information.

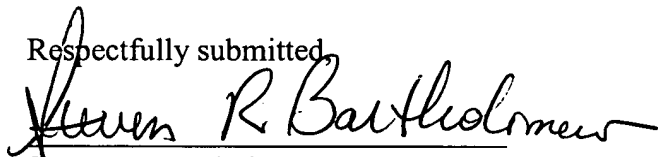
Regarding the Examiner’s observation related to the current art of ticket sales for tournament events (i.e. College Basketball) allocating tournament tickets to alumni based of level of gift giving, please note the following distinctions vis-à-vis the current invention. In the above-cited example, the allocation of tickets to such alumni is absolute and final. This allocation typically comes out of the allocation of tournament tickets to the respective school/university. There is no uncertainty whatsoever regarding the allocation of these tickets and alumni can individually determine how much they want to contribute in order to get an allocation of these tickets. In one sense, this is a form of legalized “scalping” where certain teams/universities get an allocation of tickets and are able to “resell” them to potential buyers for a premium that is disguised in another form, in this case a charitable contribution to the relevant team/university. By contrast, pursuant to applicant’s claimed invention, the options vest only if the chosen team/contestant/participant underlying the option qualifies for the chosen match/contest/event, thereby creating an uncertain event whose outcome is beyond the individual control of the option holder, the team/university or even the event organizers.

Applicant recognize that a number of transactional level actions required for the current invention are superficially similar to activity that takes place in financial markets and trading, ticket sales and other e-commerce transactions. However, pursuant to the claimed invention, these activities apply to a specific, innovative product which is an option on an attendance right that specifies one or more contestants required to participate in that event. Such contestant participation, while capable of estimation, is completely uncertain at the time of issuing/creating these options and is wholly out of the control of the holder/buyer of the option or the issuer of the tickets.

In view of the foregoing distinctions, it is submitted that the pending claims are not anticipated by Walker. It is also submitted that the pending claims are not rendered obvious by Walker, either alone or in combination with the other cited references. It is further submitted that all claims are now in condition for allowance, and such action by the Examiner is earnestly solicited. If, however, the Examiner believes that there are any unresolved issues, the Examiner is urged to contact the undersigned at 212-309-2126 or 609-919-6510.

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Respectfully submitted,



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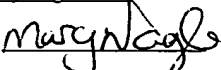
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DATE: December 16, 2002

NAME: Mary Nagle

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MARKED UP VERSION OF CLAIMS

9. **(Amended):** A computer-based method, as defined in claim 1, wherein storing [includes] further includes storing information related to vesting of a particular attendance right option.

10. **(Amended):** A computer-based method, as defined in claim 9, wherein vesting information includes an identification of a particular team or competitor who must qualify for [the] a particular event.

29. **(Amended):** A computer-based method, as defined in claim 28, wherein the step of receiving a command comprises receiving a command to purchase the option to purchase a particular attendance right at a previously-displayed offer price.

30. **(Amended):** A computer-based method, as defined in claim 28, wherein the step of receiving a command comprises receiving a command to place a specified bid on the option to purchase a particular attendance right.

31. **(Amended):** A computer-based method, as defined in claim 28, wherein the step of receiving a command comprises receiving a command to cancel a specified bid on the option to purchase a particular attendance right.

32. **(Amended):** A computer-based method, as defined in claim 1, [wherein receiving comprises] further comprising the step of receiving a command to place and maintain a bid, higher than the current highest bid, but subject to a limit, on the option to purchase a particular attendance right.



MARKED UP VERSION OF PAGE 5 & ABSTRACT

per optioned contestant) for the final match to options holders. If there were sufficient demand for each of the contestants, the organizers could sell up to 160,000 options on all the contestants, and only 5,000 of these options will vest. Similarly, in team sports with a playoff style elimination, all teams can issue such options and get some revenue, where currently, no such opportunity exists. In this way, the organizers have captured all the demand available (thereby maximizing revenues), fans have been able to match their needs to the financial cost of satisfying the need, and the event is attended by fans most interested in the event, because the options allow such matching.

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Risk that "popular" teams/competitors will be eliminated in early

rounds: Under the current system, team owner/event organizers may face financial difficulties if, for example, the qualifying competitors are not popular, [of] or if all the "favorites" are eliminated in the early rounds of competition. In these instances, there may be very little fan interest in the later round(s) of competition - and expected revenues from these rounds may never, in fact, materialize.

Unpredictable revenues, based on performance: Under the current

system, team owners (and event organizers) have

ABSTRACT

Computer-related methods, apparatus, and/or articles of manufacture to permit/facilitate the creation, marketing, and/or distribution of options to purchase tickets to a particular future event, particularly an elimination format competition, when the chosen competitor's qualification for such a game is currently uncertain, but where the uncertainty will be resolved prior to the commencement of the particular future event.